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By: **Delegates Barve, Boutin, Bozman, Bronrott, Cane, G. Clagett, Conroy, Conway, Edwards, Frush, Gaines, Gordon, Healey, Kelly, King, Madaleno, Malone, McComas, McConkey, McKee, Moe, Montgomery, Myers, Owings, Ross, Rudolph, Shank, Smigiel, Sossi, Stull, Taylor, and Weldon**

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Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 22, 2004

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Municipal Corporations - Annexations - Limitations on Uses of Land and**  
3 **Densities of Development**

4 FOR the purpose of ~~authorizing a county, as a condition of approving an annexation of~~  
5 ~~land by a municipal corporation, to require the municipal corporation to limit~~  
6 ~~the uses of land or densities of development of the annexed land in a certain~~  
7 ~~manner; authorizing a municipal corporation to provide in an annexation~~  
8 ~~resolution for the special treatment of the residents and property in the area to~~  
9 ~~be annexed as to allowable uses of land and densities of development under~~  
10 ~~certain circumstances; authorizing a municipal corporation and a property~~  
11 ~~owner to enter into an agreement that imposes conditions on the future use and~~  
12 ~~development of the area to be annexed under certain circumstances; authorizing~~  
13 ~~a local legislative body authorizing a municipal corporation to impose certain~~  
14 ~~limitations on the uses of land or densities of development in an annexation~~  
15 ~~agreement on the zoning or rezoning of land under certain circumstances;~~  
16 ~~establishing a certain exception to a certain provision regarding uniformity of~~  
17 ~~regulations within a zoning district; and generally relating to limitations on~~  
18 ~~uses of land and densities of development on land annexed by municipal~~  
19 ~~corporations.~~

20 ~~BY repealing and reenacting, with amendments,~~  
21 ~~Article 23A Corporations Municipal~~  
22 ~~Section 9(c) and 19(n)~~  
23 ~~Annotated Code of Maryland~~

1 ~~(2001 Replacement Volume and 2003 Supplement)~~

2 ~~BY adding to~~

3 ~~Article 23A—Corporations—Municipal~~

4 ~~Section 19(t)~~

5 ~~Annotated Code of Maryland~~

6 ~~(2001 Replacement Volume and 2003 Supplement)~~

7 BY repealing and reenacting, with amendments,

8 Article 66B - Land Use

9 Section ~~4.01(e)(t)~~ 4.01(c) and 4.02

10 Annotated Code of Maryland

11 (2003 Replacement Volume)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
13 MARYLAND, That the Laws of Maryland read as follows:

14 **~~Article 23A—Corporations—Municipal~~**

15 ~~9.~~

16 ~~(e) (t) (f) A municipal corporation which is subject to the provisions of~~  
17 ~~Article XI-E of the Maryland Constitution may not amend its charter or exercise its~~  
18 ~~powers of annexation, incorporation or repeal of charter as to affect or impair in any~~  
19 ~~respect the powers relating to sanitation, including sewer, water and similar facilities,~~  
20 ~~and zoning, of the Washington Suburban Sanitary Commission or of the~~  
21 ~~Maryland National Capital Park and Planning Commission.~~

22 ~~(H) Except that where any area is annexed to a municipality~~  
23 ~~authorized to have and having then a planning and zoning authority, the municipality~~  
24 ~~shall have exclusive jurisdiction over planning and zoning and subdivision control~~  
25 ~~within the area annexed; provided nothing in this exception shall be construed or~~  
26 ~~interpreted to grant planning and zoning authority or subdivision control to a~~  
27 ~~municipality not authorized to exercise that authority at the time of such annexation;~~  
28 ~~and further provided, that no municipality annexing land may for a period of five~~  
29 ~~years following annexation, place that land in a zoning classification which permits a~~  
30 ~~land use substantially different from the use for the land specified in the current and~~  
31 ~~duly adopted master plan or plans or if there is no adopted or approved master plan,~~  
32 ~~the adopted or approved general plan or plans of the county or agency having~~  
33 ~~planning and zoning jurisdiction over the land prior to its annexation without the~~  
34 ~~express approval of the board of county commissioners or county council of the county~~  
35 ~~in which the municipality is located. NOTWITHSTANDING ANY PROVISION OF~~  
36 ~~ARTICLE 66B OF THE CODE THAT MAY REQUIRE USES OF LAND OR DENSITIES OF~~  
37 ~~DEVELOPMENT TO BE UNIFORM WITHIN EACH ZONING DISTRICT, THE BOARD OF~~  
38 ~~COUNTY COMMISSIONERS OR COUNTY COUNCIL, AS A CONDITION OF APPROVING AN~~  
39 ~~ANNEXATION OF LAND BY A MUNICIPALITY, MAY REQUIRE THE MUNICIPALITY TO~~  
40 ~~LIMIT THE USES OR DENSITIES OF THE ANNEXED LAND TO FEWER THAN ALL OF THE~~

~~1 USES OR DENSITIES OTHERWISE ALLOWED UNDER THE ZONING CLASSIFICATION TO  
2 BE PLACED ON THE LAND BY THE MUNICIPALITY IN CONJUNCTION WITH THE  
3 ANNEXATION.~~

4           (2)       If the county expressly approves, the municipality, without regard to  
5 the provisions of Article 66B, § 4.05(a) of the Code, may place the annexed land in a  
6 zoning classification that permits a land use substantially different from the use for  
7 the land specified in the current and duly adopted master plan or general plan of the  
8 county or agency having planning and zoning jurisdiction over the land prior to its  
9 annexation.

10 49.

11       (n)       The resolution to add to the corporate boundaries of a municipal  
12 corporation shall provide generally that the persons residing in the area to be  
13 annexed, and their property, shall be added to the corporate boundaries, generally  
14 subject or not subject, as the case may be, to the provisions of the charter of the  
15 municipal corporation; except that for stated periods and under specific conditions  
16 provision may be made for special treatment of the residents and property in the area  
17 to be annexed, as to rates of municipal [taxation and as to] TAXATION, municipal  
18 services and facilities, AND ALLOWABLE USES OF LAND AND DENSITIES OF  
19 DEVELOPMENT. No change shall be made in these provisions for special treatment for  
20 stated periods and under specific conditions, except by resolution enacted in  
21 accordance with the provisions and requirements of this section.

22       (T)       IN ADDITION TO THOSE PURPOSES FOR WHICH A MUNICIPAL  
23 CORPORATION AND A PROPERTY OWNER MAY ENTER INTO AN AGREEMENT THAT  
24 ESTABLISHES TERMS AND CONDITIONS UNDER WHICH THE MUNICIPAL  
25 CORPORATION WILL ANNEX LAND, A MUNICIPAL CORPORATION AND A PROPERTY  
26 OWNER MAY ENTER INTO AN AGREEMENT THAT IMPOSES CONDITIONS ON THE  
27 FUTURE USE AND DEVELOPMENT OF THE AREA TO BE ANNEXED FOR THE BENEFIT  
28 OF THE AREA TO BE ANNEXED OR FOR THE PROTECTION OF NEARBY AREAS.  
29 NOTWITHSTANDING THE PROVISIONS OF ARTICLE 66B OF THE CODE, THESE  
30 AGREEMENTS MAY INCLUDE LIMITATIONS ON THE USES OF LAND OR DENSITIES OF  
31 DEVELOPMENT OF THE ANNEXED AREA TO FEWER THAN ALL OF THE USES OR  
32 DENSITIES OTHERWISE ALLOWED UNDER THE ZONING CLASSIFICATION TO BE  
33 PLACED ON THE LAND BY THE MUNICIPAL CORPORATION IN CONJUNCTION WITH  
34 THE ANNEXATION.

35

#### Article 66B - Land Use

36 4.01.

37       (c)       (1)       On the zoning or rezoning of any land under this article, a local  
38 legislative body may impose any additional restrictions, conditions, or limitations  
39 that the local legislative body considers appropriate, ~~INCLUDING IN AN ANNEXATION  
40 AGREEMENT LIMITATIONS ON THE USES OF LAND AND DENSITIES OF  
41 DEVELOPMENT OTHERWISE ALLOWED IN THE ZONING DISTRICT WHERE THE LAND  
42 IS LOCATED~~, to preserve, improve, or protect the general character and design of:

- 1 (i) The lands and improvements being zoned or rezoned; or  
2 (ii) The surrounding or adjacent lands and improvements.

3 (2) A MUNICIPAL CORPORATION MAY INCLUDE IN AN ANNEXATION  
4 AGREEMENT LIMITATIONS ON THE USES OF LAND AND DENSITIES OF  
5 DEVELOPMENT OTHERWISE ALLOWED IN THE ZONING DISTRICT WHERE THE LAND  
6 IS LOCATED.

7 [(2)] (3) On the zoning or rezoning of any land, a local legislative body  
8 may retain or reserve the power to approve or disapprove the design of buildings,  
9 construction, landscaping, or other improvements, alterations, and changes made or  
10 to be made on the land being zoned or rezoned to assure conformity with the intent  
11 and purpose of this article and of the local jurisdiction's zoning ordinance.

12 [(3)] (4) The powers provided in this subsection shall apply only if the  
13 local legislative body adopts an ordinance which shall include enforcement procedures  
14 and requirements for adequate notice of public hearings and conditions sought to be  
15 imposed.

16 4.02.

17 (a) A local legislative body may divide the local jurisdiction into districts of  
18 any number, shape, and area that the local legislative body considers best suited to  
19 execute the purposes of this article.

20 (b) (1) Within the districts created, the local legislative body may regulate  
21 and restrict the erection, construction, reconstruction, alteration, repair, or use of  
22 buildings, structures, or land.

23 (2) [All] EXCEPT AS PROVIDED IN THIS ARTICLE OR OTHERWISE  
24 AUTHORIZED BY LAW, ALL regulations shall be uniform for each class or kind of  
25 development throughout each district, but the regulations in one district may differ  
26 from those in other districts.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
28 October 1, 2004.